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FEDERAL COMMUNICATIONS COMMISSION
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Federal-State Joint Board on
Universal Service

CC Docket No. 96-45

Multi-Association Group (MAG) Plan for
Regulation of Interstate Services of
Non-Price Cap Incumbent Local Exchange
Carriers and Interexchange Carriers

CC Docket No. 00-256

AT&T COMMENTS ON RTF FNRPM

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, and its Further Notice of Proposed Rulemaking in CC Docket No. 96-45, released May 23, 2001, published in 66 Fed. Reg. 34603 (June 29, 2001) ("RTF FNPRM"), AT&T Corp. ("AT&T") submits these comments on the proposal of the Rural Task Force ("RTF") to freeze high-cost loop support on a per-line basis in rural carrier study areas when a Competitive Eligible Telecommunications Carrier ("CETC") initiates service.¹

The RTF proposal would freeze incumbent local exchange carrier ("ILEC") per-line high-cost loop support in a rural carrier study area whenever a CETC initiates service. This frozen per-line support would apply to both the ILEC and the CETC and would be grown by an annual rural growth factor ("RGF") (growth in lines + inflation) for

¹ The *RTF FNPRM* is a part of the Commission's Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157, released May 23, 2001 ("RTF Order"). In that order, the Commission

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purposes of determining future year support rather than any underlying increase in the ILEC's per-line costs because of competitive entry.

Under the Part 36 rules, the portable per-line support is determined based on the annual data submissions of the ILEC. 47 C.F.R. § 36.611. Under normal circumstances, embedded costs per line generally decrease with line growth, but, with competitive entry, the potential exists for the ILEC to lose lines without shedding much costs, thereby driving up its costs per line. As described in the RTF's December 14, 2001 *Ex Parte*, the RTF, in suggesting the need to freeze per-line support when a CETC entered, was concerned about competition and the *loss* of lines. In that circumstance, in the absence of freezing the per-line support, the real possibility exists that the per-line support amount for the ILEC study areas would increase precipitously, resulting in a "spiraling" increase of support for that study area that would be available to both the ILEC and the CETC.

The need for freezing per-line support to avoid fund growth at competitive entry can be illustrated using the following example. Assume the ILEC is obtaining \$100 of high-cost support for 10 lines, or \$10 per line. If the ILEC loses 50% of its lines to a CETC, under the embedded cost formula, in the following year, the ILEC would still get \$100 in high-cost support or \$20 per line for each of its 5 remaining lines. Now, however, the CETC, would also qualify for the same amount of support as the ILEC, or \$20 per line for each of the 5 lines it "won" from the ILEC. Under this scenario, the amount of support

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adopted the proposal of the RTF and revised the mechanism by which rural carriers receive high-cost universal service support.

for the study area, still comprised of a total of 10 lines, would have doubled from \$100 to \$200.

In other words, absent freezing per-line support, the predictable impact of a CETC serving lines “won” from the ILEC, would be that the ILEC’s reported number of working lines would decrease and the associated embedded costs per line would increase, such that there would be an increase in portable per-line support for both the ILEC and the CETC, thus driving up the size of the fund.² Even in years for which the indexed cap is in effect, the overall cap, nonetheless, is insufficient to mitigate against any precipitous increase to the total high-cost loop fund due to CETCs serving new lines. In addition, in the absence of freezing ILEC per-line support upon competitive entry, the above phenomenon could result in a siphoning of support from other study areas to the study areas subject to competition. This would result in competitive study areas receiving relatively more support than non-competitive study areas. This outcome is completely illogical because competition should reduce the need for subsidies, not increase it.

The RTF Recommendation of freezing the per-line support in a study area upon competitive entry was specific to the years in which the indexed cap was in effect.³ But a significant, anomalous increase in the competitive study area support could materialize also in those years when the indexed cap is not in effect. In the *RTF Order* (¶ 126), the Commission declined the RTF’s recommendation to freeze per-line support at

² Under Part 36, Subpart F, portable loop support is based on ILEC data submissions only.

³ The RTF Recommendation limited the ILEC high-cost loop fund payments to the lesser of the amount calculated pursuant to the frozen per-line methodology and its share under the indexed capping mechanism. See RTF Recommendation, p. 26.

competitive entry because of the possibility that the ILEC could receive more per-line support than otherwise. Specifically, it stated that “in the years the [indexed] cap is not triggered, frozen per-line support, as proposed by the Rural Task Force, actually might exceed the support that carriers would receive based on the incumbent’s embedded costs.” Although this anomalous outcome is a possibility, it is extremely remote. AT&T notes that it is highly unlikely that this result would materialize because it would require the indexed cap on the size of the high-cost fund not to be in effect with the ILEC receiving support purely under the high-cost expense adjustment per the Part 36 rules (47 C.F.R. § 36, Subpart F) *and* the ILEC would have to *not* have lost a significant number of lines to the CETC. In these circumstances, the ILEC could conceivably be receiving more per-line support under the frozen per-line methodology than its embedded costs because the ILEC’s frozen per-line support would grow by the rural growth factor, even though it has not lost lines and thus is not required to spread fixed costs across a smaller number of lines.⁴ While this potential exists, the ramification is far less severe than when the ILEC loses lines to the CETC.⁵ For this reason, the Commission should adopt the RTF’s frozen per-line approach

⁴ Thus, for example, if the ILEC had been receiving \$100 in high-cost support for 10 lines, or \$10 per line, and this amount is frozen if a CETC enters, the impact of a 5% rural growth factor would increase the ILEC’s support to \$105 for 10 lines, or \$10.50 per line, assuming that the CETC serves new lines rather than lines won from the ILEC.

⁵ Moreover, the Commission can readily correct this anomaly by constraining the ILEC payments to the lesser of the amount calculated pursuant to the frozen per-line methodology and the amount pursuant to the Part 36, Subpart F rules, for those years in which the indexed cap is not in effect. This is precisely the language that the RTF Recommendation employs for years in which the indexed cap is in effect. *See* RTF Recommendation, p. 26; *see also* Rural Leadership Coalition *Ex Parte*, filed November 14, 2000, submitting draft rules for the frozen per-line expense adjustment, *i.e.*, proposed Section 54.308(f).

to constrain the growth of high-cost support in the face of competitive entry and ILEC loss of lines.

Although AT&T believes that the RTF's proposal to freeze per-line support is basically a sound approach for guarding against excessive growth in the size of the rural carrier high-cost loop fund, one minor correction should be made. Application of the rural growth factor to frozen per-line support in the study area is inappropriate double-counting. Because the per-line mechanism already includes line growth, only the inflation component of rural growth factor should be applied to the frozen per-line support.

CONCLUSION

For the reasons stated above, the Commission should: (1) adopt RTF's frozen per-line mechanism for capping high-cost support in the face of competitive entry, and (2) grow the amount of frozen per-line support only by the inflation component of the rural growth factor.

Respectfully submitted,

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By /s/



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